

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
GREENVILLE DIVISION**

IN RE:

**CHRISTOPHER T. FURLOUGH,

DEBTOR.**

**CASE NO.: 15-02254-5-JNC

CHAPTER 12**

**MOTION TO SELL PROPERTY FREE AND CLEAR OF LIENS
AND OTHER INTERESTS, WITH LIENS TO ATTACH TO PROCEEDS
PURSUANT TO 11 U.S.C. § 363(f)
(Real Property)**

COMES NOW, the Debtor, by and through undersigned counsel of record, and respectfully moves this Court for an Order authorizing the Debtor to sell certain real property free and clear of liens and other interests in said property, with liens to attach to the proceeds pursuant to 11 U.S.C. § 363(f), and in support thereof shows unto this Court as follows:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. The Debtor filed a voluntary petition under Chapter 12 of the United States Bankruptcy Code on April 22, 2015, and currently operates as a Debtor-in-Possession.
3. The Debtor is engaged in the business of farming wheat, corn, cotton, and soybeans in Washington and Martin Counties, North Carolina.
4. This Motion is made pursuant to the provisions of §§ 363(f) and 1101, *et seq.* of the Bankruptcy Code and subject to Rule 6004 of the Bankruptcy Rules which provide for a subsequent determination of the validity, priority, and extent of such liens after due notice and a hearing as provided by law.
5. The Debtor seeks approval to sell the approximate 229.24 acres of real property located at 33829 U.S. Hwy 64, Jamesville, NC ("Property"), free and clear of all liens,

encumbrances, rights, interests, and claims of record.

6. Simultaneous with the filing of this Motion, the Debtor is filing a Motion for Approval of Private Sale. The private sale of the Property is being proposed in good faith, will be in the best interest of the bankruptcy estate, and is made for a sound business purpose, to wit:

- A. The Debtor believes that the sale of the Property will generate the maximum return for creditors;
- B. The Debtor believes that a private sale will generate the highest sales price for the Property; and
- C. The private sale has been negotiated and will be executed in good faith.

7. The Debtor seeks approval for the Property to be conveyed to the buyer free and clear of any and all liens, encumbrances, claims, rights and other interests, including but not limited to the following:

- A. Any and all real property taxes due and owing to any City, County or municipal corporation, including but not limited to the Martin County Tax Collector.
- B. Lien asserted by AgCarolina Financial, ACA ("AgCarolina") by virtue of a Deed of Trust dated and recorded March 24, 2010 in Book R-23, Page 214, Martin County, North Carolina, Registry.
- C. Lien asserted by Farm Service Agency ("FSA") by virtue of a Deed of Trust dated and recorded March 24, 2010 in Book R-23, Page 223, Martin County, North Carolina, Registry.
- D. Any and all remaining interests, liens, encumbrances, rights and claims asserted against the Property, which relate to or arise as a result of a sale of the Property, or which may be asserted against the buyer of the Property, including, but limited to,

those liens, encumbrances, interests, rights and claims, whether fixed and liquidated or contingent and unliquidated, that have or may be asserted against the Property or the buyer of the Property by the North Carolina Department of Revenue, the Internal Revenue Service, and any and all other taxing and government authorities.

8. The herein described liens shall attach to the proceeds of sale, if any, subject to the relative priorities and in accordance with the Bankruptcy Code.

9. The distribution of the proceeds of sale of the Property shall be subject to payment of all reasonable administrative costs of this proceeding as provided for by §§ 330, 503, 507 and other applicable sections of the Bankruptcy Code as the Court may allow.

10. The Debtor requests that the sale of the Property and any transfer or assignment relating thereto, be exempt from any transfer tax, stamp tax or other similar tax pursuant to §§ 105(a) and 1146 of the Bankruptcy Code.

11. If any creditor claiming a lien, encumbrance, right or interest on, in or against the Property, or against a buyer of the Property, does not object within the time allowed, it should be deemed to have consented to sale of the Property free and clear of its liens, claims, encumbrances, rights, and interests.

WHEREFORE, the Debtor prays of the Court for an Order, as follows:

1. To allow the sale of the Property described herein, free and clear of the liens, claims, encumbrances, rights and interests described herein.

2. To allow the described liens to attach to the proceeds of sale, if any, subject to the Orders of Distribution that may be entered by this Court.

3. To allow the proceeds of sale of the Property to be subject to payment of all administrative costs of this proceeding.

4. To reserve for a subsequent determination the validity, priority and extent of the liens of such lienholders and claimants.

5. To allow the sale of the Property and any transfer or assignment relating thereto, be exempt from any transfer tax, stamp tax or other similar tax pursuant to §§ 105(a) and 1146 of the Bankruptcy Code.

6. To allow that the buyer(s) of the Property does not assume, have any liability or responsibility for any liabilities or obligations of the Debtor, whether *in rem* claims or *in personam* claims.

7. To enjoin all creditors and claimants of the Debtor, and all persons having an interest of any nature derived through the Debtor, from pursuing any action against the buyer(s) of the Property once acquired by the buyer(s).

DATED: 2/16/2016

s/Laurie B. Biggs
LAURIE B. BIGGS
N.C. State Bar No. 31845
STUBBS & PERDUE, P.A.
9208 Falls of Neuse Road, Suite 201
Raleigh, North Carolina 27615
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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
GREENVILLE DIVISION**

IN RE:

**CHRISTOPHER T. FURLOUGH,
DEBTOR.**

**CASE NO.: 15-02254-5-JNC
CHAPTER 12**

**NOTICE OF MOTION TO SELL PROPERTY FREE AND CLEAR OF LIENS
AND OTHER INTERESTS WITH LIENS TO ATTACH TO PROCEEDS
PURSUANT TO 11 U.S.C. § 363(f)**

NOTICE IS HEREBY GIVEN of the MOTION TO SELL PROPERTY FREE AND CLEAR OF LIENS AND OTHER INTERESTS WITH LIENS TO ATTACH TO PROCEEDS PURSUANT TO 11 U.S.C. § 363(f) filed by the Debtor simultaneously herewith in the above captioned case; and

FURTHER NOTICE IS HEREBY GIVEN that this Motion may be allowed provided no response and request for a hearing is made by a party in interest in writing to the Clerk of this Court on or before March 4, 2016; and,

FURTHER NOTICE IS HEREBY GIVEN, that if a response and a request for a hearing is filed by a party in interest in writing within the time indicated, a hearing will be conducted on March 16, 2016 at 11:00 a.m. at the United States Bankruptcy Court, 150 Reade Circle, Greenville, North Carolina. Any party requesting a hearing shall appear at said hearing in support of such request or he may be assessed Court costs. If no request for a hearing is timely filed, the Court may rule on the Motion and response thereto *ex parte* without further notice. Any party filing an objection requesting a hearing shall appear at said hearing or they may be taxed with Court costs.

DATE OF NOTICE: 2/16/16

s/Laurie B. Biggs
LAURIE B. BIGGS
N.C. State Bar No. 31845
STUBBS & PERDUE, P.A.
9208 Falls of Neuse Road, Suite 201
Raleigh, North Carolina 27615
(919) 870-6258
(919) 870-6259 Facsimile
E-mail: lbiggs@stubbsperdue.com

CERTIFICATE OF SERVICE

I, Laurie B. Biggs, 9208 Falls of Neuse Road, Suite 201, Raleigh, North Carolina 27615 certify;

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on the 16th day of February, 2016, copies of the foregoing MOTION TO SELL PROPERTY FREE AND CLEAR OF LIENS AND OTHER INTERESTS WITH LIENS TO ATTACH TO PROCEEDS PURSUANT TO 11 U.S.C. § 363(f) and Notice were served on the parties listed below, and on the parties listed on the attached Exhibit A by depositing a copy of the same in the United States mail bearing sufficient postage, as indicated; and,

That I certify under penalty of perjury that the foregoing is true and correct.

DATED: 2/16/2016

s/Laurie B. Biggs
LAURIE B. BIGGS
N.C. State Bar No. 31845
STUBBS & PERDUE, P.A.
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TO:
Richard M. Stearns, Trustee

(via CM/ECF)

Chris Furlough
913 Beasley Road
Roper, NC 27970

(via first class mail)

Douglas M. Gurkins

(via E-mail)

Country Boys Auction & Realty, Inc.
c/o Michael Gurkins

(via E-mail)

EXHIBIT A

Martin County Manager for
Martin County Tax Collector
305 E. Main Street
Williamston, NC 27892

Washington County Manager for
Washington County Tax Collector
116 Adams Street
Plymouth, NC 27962

Internal Revenue Service
Attn: Manager or Agent
P.O. Box 7346
Philadelphia, PA 19101-7346

Internal Revenue Service
Attn: Manager or Agent
Alamance Blvd Mail Stop 24
4905 Koger Blvd.
Greensboro, NC 27407-2734

U.S. Attorney
Attn: Civil Process Clerk
310 New Bern Avenue
Federal Building, Suite 800
Raleigh, NC 27601-1461

N.C. Department of Commerce, DES
Attn: Manager or Agent
P.O. Box 26504
Raleigh, NC 27611

N.C. Department of Revenue
Attn: Manager or Agent
P.O. Box 1168
Raleigh, NC 27602

Attorney General
For the State of North Carolina
Attn: David Lennon
P.O. Box 629
Raleigh, NC 27602

AgCarolina Financial, ACA
Attn: Manager or Agent
P.O. Box 1066
Williamston, NC 27892-1066

Farm Service Agency
Attn: Manager or Agent
4407 Bland Road, Suite 175
Raleigh, NC 27609